

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SHAY HORSE, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

No. 1:17-cv-01216 (ABJ)

**DEFENDANT JOHN DOE’S OPPOSITION TO PLAINTIFFS’
MOTION FOR LEAVE TO PUBLICLY FILE THEIR
MOTION TO AMEND THE COMPLAINT**

Defendant Officer John Doe, through undersigned counsel, hereby opposes Plaintiffs’ Motion for Leave to File on the Public Docket their Motion to Amend their Complaint. ECF No. 65. As set forth in more detail below, the Court should hold the request in abeyance because the parties are currently in mediation.

Relevant Background

On September 27, 2019, the Court ruled upon the Defendants’ pending dispositive motions in open court. With respect to Defendant John Doe, the Court denied his Motion to Dismiss or in the Alternative for Summary Judgment. However, in so doing, the Court noted that the evidence exposed troubling inconsistencies between the different accounts of Plaintiffs Horse and Gonzalez. The Court also observed that the claims against Defendant John Doe are logically distinct from the other claims at issue and perhaps unappealing to a jury. As a result, the Court urged Plaintiffs to consider dismissing Defendant John Doe from the case.

Rather than consider the request, Plaintiffs immediately moved the Court to unseal Defendant John Doe’s name at the end of the hearing. The Court denied the request on the spot,

reasoning that the parties should focus on exploring mediation. Plaintiffs now move for reconsideration of this denial, despite the fact that the parties are now in beginning stages of mediation.

Argument

On the same day Plaintiffs moved for leave to publicly file their Amended Complaint, the parties filed a joint status report requesting a referral to mediation, which the Court granted. The motion for leave appears to argue that Defendant John Doe's name should have never been sealed in the first place. This argument, like the request to unseal, has already been made and rejected. Indeed, the Court already permitted the sealing to occur and, on September 27, 2019, denied the request to unseal during the pendency of mediation. Thus, Plaintiffs' motion is really a motion for reconsideration.

The Court should deny it. A referral to mediation is an opportunity for the parties to focus on resolving the case, not an opportunity to jockey for position. Moreover, the need to publicly reveal Defendant John Doe is particularly weak, as this Court has already observed that Defendant John Doe has little to do with Plaintiffs' core allegations. Thus, while Plaintiffs are free to disregard the Court's dismissal suggestion, they should at least be able to articulate a sufficient reason for actively litigating against Defendant John Doe during mediation. The desire to expose Defendant John Doe to the public at this juncture is insufficient and contrary to the spirit of mediation.

Conclusion

Accordingly, the Court should hold Plaintiffs' Motion for Leave to File on the Public Docket their Motion to Amend their Complaint in abeyance during the pendency of mediation.

November 1, 2019

Respectfully submitted,

/s/ Danny Onorato

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/s/ Joseph A. Gonzalez

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ORDER

Upon consideration of Plaintiffs' Motion for Leave to File on the Public Docket their Motion to Amend their Complaint., Defendant John Doe's Opposition, and the entire record, it is this ____ day of _____, 2019,

ORDERED, that Plaintiffs' Motion is held in abeyance, and it is further

ORDERED, that if mediation is terminated as unsuccessful, that the Court will allow Plaintiffs to publicly reveal John Doe's true name.

THE HONORABLE AMY BERMAN JACKSON
United States District Judge